

Progression of Events for Burkhart-Billboard on 52 South

12/4/06- Building Inspector took pictures of blown down sign and left a violation notice to contact the Tippecanoe County Building Commissions Office and obtain a Building Permit before the billboard can be repaired.

Sometime before 12/11/06-A Burkhart Representative contacted the Tippecanoe County Building Commissions Office. At that time he was told that the sign was considered non-conforming and that repair could not exceed more than 50% of the replacement cost of that use and that the sign may not be able to be repaired and might have to be taken down. However, I would seek our Legal Council before making that decision.

12/11/06- Talked with Legal Council about this issue.

12/13/06- It was determines that the billboard could not be replaced and a letter was sent to Mr. O'Brian of Burkhart Advertising Inc. of these findings.

12/15/06- Faxed the letter to Mr. Bumbleburg, their legal council.

12/19/06- Took pictures of the site and as you can see work had already started.

As of this date, the appeal has been applied for BZA 1734 and we await your final decision.

SEEGER, HODSON & FORBES
ATTORNEYS

JAY T. SEEGER
Licensed in Indiana and Florida
Registered Mediator
Certified Civil Trial Advocate
jay@shf-law.net

106 North Ninth Street, P.O. Box 878
Lafayette, Indiana 47902-0878

Telephone: (765) 742-4529
Facsimile: (765) 742-6445

December 11, 2006

Ron Highland
Tippecanoe Area Building Commissioner
20 North 3rd Street
Lafayette, IN 47901

Re: Burkhart Outdoor Advertising Sign
Our file no. 200e

Dear Ron:

This letter is in follow up to our discussion regarding the Outdoor Advertising Sign (billboard) located on U.S. Highway 52 South which was damaged in a recent wind storm. The site on which this sign is located is zoned Agricultural. Under the Unified Zoning Ordinance (UZO), Outdoor Advertising Signs are only permitted in General Business and Industrial zones. A billboard is not permitted in an Agricultural zone. However, because the billboard in question was located on this site before the enactment of the UZO, it was allowed to remain as a non-conforming use.

The UZO defines a nonconforming use as follows:

NONCONFORMING USE. A *primary use* of a *structure* or *lot* which is not permitted in 3-2 below to be operated in the *zone* in which it is located, and which otherwise lawfully existed at the time the applicable portion of 3-2 became effective.

Generally a nonconforming use can continue indefinitely. However,

When a *nonconforming use* is damaged by any means to the extent that repairs would cost more than 50% of the replacement cost of that *use*, the *nonconforming use* shall no longer be permitted.

Since the recent windstorm, all that remains of the sign is four poles, and at least two of them are leaning to such a degree that they must be repositioned. Thus in the present case the case, the damage to the sign exceeds 50% of its replacement cost. Therefore, it cannot be rebuilt. You will need to notify Burkhart Advertising of this decision. When you send out the notice of this decision, you will need to advise Burkhart Advertising of its right to appeal this decision to the Tippecanoe County Board of Zoning Appeals. If Burkhart Advertising decides to appeal this

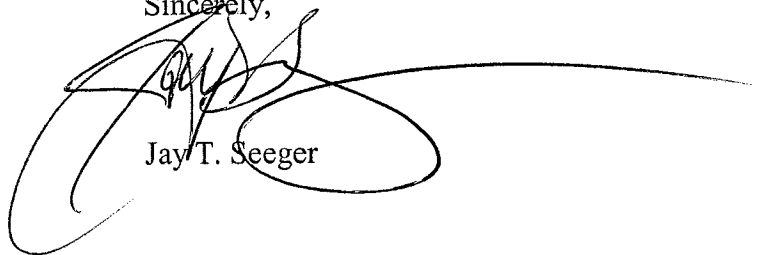
12/11/2006

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decision, you can tell them that I would be happy to talk with its legal counsel to discuss the appeal process should it decide to take such action.

If you have any questions or wish to discuss this matter further, feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay T. Seeger", with a long horizontal flourish extending to the right.

Jay T. Seeger

JTS/mfs

TIPPECANOE COUNTY BUILDING COMMISSION

Ron Highland
20 N. 3rd Street
Lafayette, IN 47901

Building Commissioner
PHONE 765-423-9225
FAX 765-423-9203

December 13, 2006

Terry J. O'Brien
Burkhart Advertising Inc.
1335 Mishawaka Avenue
South Bend, IN 46615

Re: Rebuilding Burkhart Outdoor Advertising Sign on Hwy 52 West

Dear Mr. O'Brien:

After further investigation of your sign that was blown down by high winds and discussing this with our legal council, your sign has been determined to be a non-conforming sign. Therefore if the damage of the sign exceeds fifty percent (50%) of its replacement cost, it cannot be rebuilt. In conclusion, based on the information from our legal council your sign cannot be replaced. If you wish to appeal this decision, you may do so by contacting our legal council.

Mr. Jay T. Seeger
106 North Ninth Street
P. O. Box 878
Lafayette, IN 47902-0878
Telephone: (765) 742-4529

If you decide not to appeal this decision, you will have thirty (30) days in which to remove all of the supporting posts from the ground and clean up the area.

Sincerely,

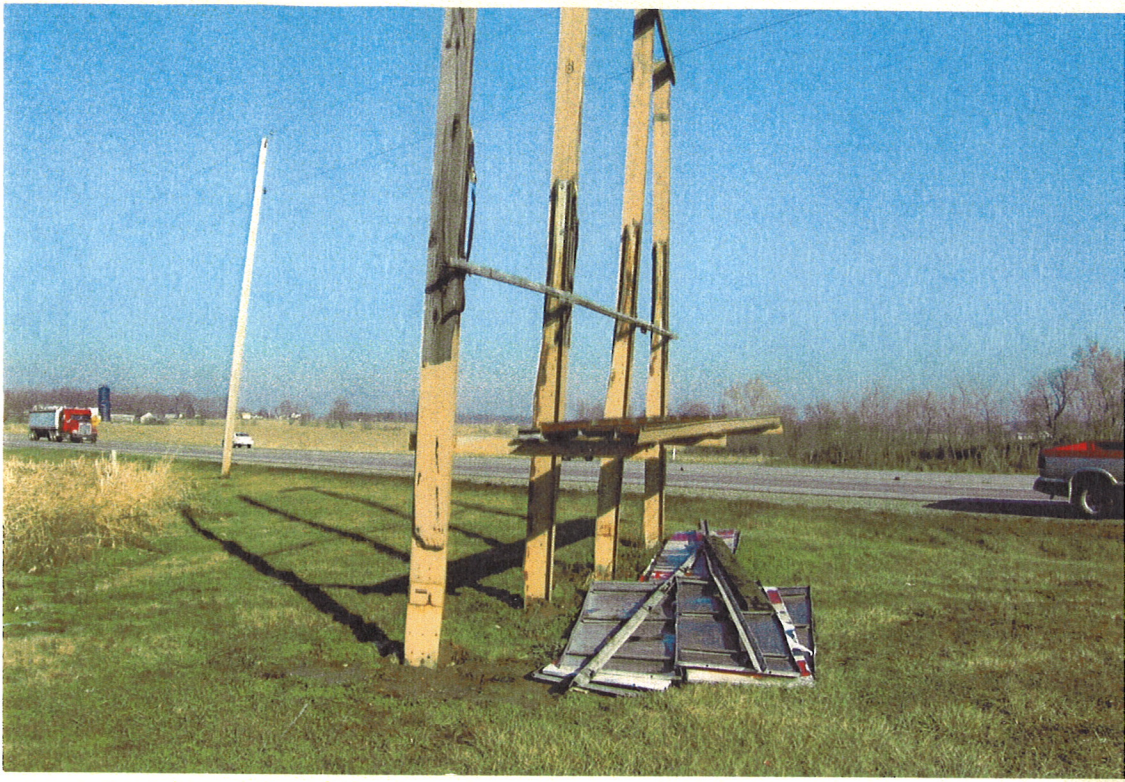
A handwritten signature in black ink, appearing to read "Ronald L. Highland". The signature is fluid and cursive, with the first name "Ronald" being the most prominent part.

Ronald L. Highland
Tippecanoe County Building Commissioner





12-04-06



Tue 12-19-04